

Managing Vietnam's maritime boundary disputes

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Abstract: This article examines the progress made in managing Vietnam's maritime boundary disputes and analyzes the challenges that lie ahead relating to unsettled disputes. The continuity and change in Vietnam's approach to dispute a settlement and the difficulties in managing the unresolved maritime disputes are assessed. Vietnam has made considerable progress in managing its maritime disputes; however, continued efforts are needed to address the unresolved disputes.

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- See supra note 1
- See supra note 1
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- and Nguyen, *Les délimitations*, supra note 21, p. 51-53 The Agreement on the Demarcation of Waters, Exclusive Economic Zones, and Continental Shelves in the Bac Bo (Tonkin) Gulf (name used in Vietnamese sources at the time of signing) was officially signed on 25 December 2000 in Beijing. See Viet Nam, China sign joint statement for comprehensive cooperation (25 December 2000), from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn:8080/.../6279f8d7fcf98966c7269c10028184c? (accessed on 28 December 2000) China, Viet Nam Sign Agreements (2001) *Beijing Review*, 44 (2), pp. 9-10. , See also, 11 January
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- For broader studies on both agreements, see: Thao, *Les délimitations*, supra note 21, pp. 67-74 Hong Thao, N., *The Gulf of Tonkin: A Case Study of Dispute Settlement* (2003) *Management and Resolution of Inter-State Conflicts in Southeast Asia*, edited by Kamarulzaman Askandar, pp. 207-214. , Penang: Southeast Asian Conflict Studies Network

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- Hong Thao, N., Hai Oanh, H., *Legal Aspects of the Supplementary Treaty to the 1985 Treaty on Boundary Delimitation between Vietnam and Cambodia* (2006) *Vietnam Law & Legal Forum*, 12 (137), pp. 17-20. , January
- Cambodia-Vietnam Historic Waters Agreement, *supra* note 17, Article 2 It is noted that the full text of the 1982 Historic Waters Agreement, *supra* note 17, transmitted by the official Cambodian News Agency (SPK) on 8 July 1982 omitted the sentence: Patrolling and surveillance in these historical waters will be jointly conducted by the two sides, which is in Article 3 of the version published by Vietnam News Agency and reproduced in Kittichaisaree, *supra* note 1, pp. 180-181 and T. L. McDorman, *supra* note 17 See BBC/FE/7074_A3/8, 7076/A3/7 (13 July 1982) See *supra* note 24 See the Thailand-Vietnam Maritime Boundary Agreement, *supra* note 22 See the Malaysian-Vietnam Joint Development Agreement, *supra* note 21 and the 1979 Malaysia-Thailand Joint Development Agreement, reprinted in Kittichaisaree, *supra* note 1, pp. 189-192 See Amer, *Expanding ASEAN*, *supra* note 27, p. 46 For a more detailed analysis, see Thao, *supra* note 2, pp. 99-108 and Thao, *Joint Development*, *supra* note 21, p. 79-88 For more detailed analyses, see: Thao, *supra* note 2, and 107-108 Nguyen Hong Thao, *Le premier accord de délimitation des frontières maritimes du Vietnam*, *Annuaire du droit de la mer*, Tome I (Paris: Edition A. Pédone et Institut du droit économique de la mer Monaco, 1996), pp. 259-273 and Thao, *Vietnam's First*, *supra* note 22, pp. 74-78 See Ramses Amer, *Conflict Management within the Association of Southeast Asian Nations ASEAN*, *Assessing the Adoption of the 'Rules of Procedure of the High Council of the Treaty of Amity and Cooperation in Southeast Asia*, in Askandar, *supra* note 24, pp. 117-118 Vietnam officially expressed its displeasure with Taiwanese activities in the Spratly archipelago on Banthan reef in both 2003 and 2004. On 31 October 2003, in response to a question by the Vietnamese radio, Voice of Vietnam, the spokesperson of Vietnam's Ministry of Foreign Affairs criticized Taiwan, demanded that they stop all activities, and reiterated Vietnam's sovereignty claims to both the Spratly and Paracel archipelagos Answer by MOFA's Spokesperson, Mr. Le Dzung, to correspondents on October 31st, 2003, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn:8080/Web%server/Press.nsf/3d74812854f020948025688 (accessed 19 July 2004) On 30 March 2004, Vietnam once again criticized Taiwan, demanded that they stop all activities, and reiterated Vietnam's sovereignty claims to both the Spratly and Paracel archipelagos. Vietnam objects to Taiwan's construction in Truong Sa archipelago, from the website of Nhan Dan at www.nhandan.org.vn/english/20040331/index.html and www.nhandan.org.vn/english/20040331/bai-news1.html (accessed on 7 April 2004) See also Vietnam expresses its strong protest to violation of Vietnam's territorial sovereignty over Truong Sa, Answer to Correspondent by Mr. Le Dzung, The Spokesman of the Vietnamese Ministry of Foreign Affairs on 1st April 2004, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/tt_baochi/pbnfn/ns041116144203 (accessed on 3 August 2006) Vietnam officially expressed its displeasure with Taiwanese activities on Itu Aban Island in late December 2005. On 29 December 2005, in response to a question, the spokesperson of

Vietnam's Ministry of Foreign Affairs criticized Taiwan and stated that Taiwan's plans to construct a runway on Itu Aban constitutes a violation of Vietnam's sovereignty claims to both the Spratly and Paracel archipelagos. Taiwan's construction of a runway on Ba Binh Island (Itu-Aban) constitutes a severe violation of Vietnam's sovereignty, Answer to Correspondents by Mr. Le Dzung, The Spokesman of the Vietnamese Ministry of Foreign Affairs on 29th December 2005, from the website of the Ministry of Foreign Affairs of Vietnam, at http://www.mofa.gov.vn/en/tt_baochi/pbnfn/ns051229163816 accessed on 3 August 2006 For more detailed analyses of the normalization process and the way in which the territorial disputes were addressed during this process, see: Ramses Amer, *The Sino-Vietnamese Approach to Managing Boundary Disputes*, Maritime Briefing, 3, No. 5 Durham: International Boundaries Research Unit, University of Durham, 2002 Amer, R., *Assessing Sino-Vietnamese Relations through the Management of Contentious Issues* (2004) *Contemporary Southeast Asia*, 26, pp. 327-328

- Amer, R., *Sino-Vietnamese Normalization in the Light of the Crisis of the Late 1970s* (1994) *Pacific Affairs*, 67, pp. 365-366, 376-382. , For a broader analysis of the normalization process, see
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- For details about the actions causing the periods of tension, see Amer, *The Sino-Vietnamese Approach*, supra note 40, pp. 8-26 The twelfth round of talks was held in Hanoi on 8-10 December 2005. See Viet Nam, *China to complete landmark demarcation in 2008*, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/nr040807104143/nr040807105001/ns051212154021 (accessed on 9 January 2006) Thao, supra note 36, at p. 111 For details about the talks and the context in which they took place, see Amer, *The Sino-Vietnamese Approach*, supra note 40, pp. 11-34, 50-58 See also Amer, *Assessing Sino-Vietnamese*, supra note 40, pp. 331-333 The tenth round of talks on sea issues was held in Beijing on 21 and 23 June 2005. Vietnam and Chinese experts hold talks on sea issues, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/nr04087104143/nr040807105001/ns050627151155 (accessed on 24 July 2005) *Gulf of Tonkin Maritime Boundary Agreement*, supra note 23 Vietnam, *China exchange documents ratifying Tonkin Gulf demarcation agreement*, from the website of Nhan Dan, at www.nhandan.org.vn/english/news/010704/domestic_vietnamchina.htm (accessed on 19 July 2004) See also: *Two China-Vietnam Beibu Gulf agreements take effect*, from the website of the People's Daily Online (English version), at english.people.com.cn/200407/01/eng20040701_148157.html (accessed on 3 October 2004) *Supplementary Protocol to the Fisheries Agreement*, supra note 25 The tenth round of government-level talks were held in Hanoi on 9 January 2004. See: *Vietnam, China hold border talks and political exchanges*, News Bulletin, No. 1500-1501 (10-11 January 2004) (English language bulletin), from the website of Nhan Dan, at www.mofa.gov.vn/en/nr04087104143/nr040807105001/ns050627151155 (accessed on 24 July 2005) *Vietnam.China continue fishing co-operation talks*, News Bulletin No. 1546 (25 February 2004) (Section on Economy) (English language bulletin), from the website of Nhan Dan, at www.nhandan.org.vn/english/20040225/economy.html (accessed on 15 September 2004) See supra note 30 For details, see: *Two China-Vietnam*, supra note 47 See also *VN - China Gulf Pact to Enhance Relations*, *Vietnam Law & Legal Forum*, 10, No. 118 (June 2004), pp. 8-10 Hong Thao, N., *The New Legal Order in the Tonkin Gulf* (2004) *Vietnam Law & Legal Forum*, 10 (119), pp. 9-15, 19. , For an early analysis of the implications of the entry into force of the two agreements, see, July
- The legal terminology used in this context is derived from Zou Keyuan, *Maritime Boundary Delimitation in the Gulf of Tonkin*, *Ocean Development and International Law*, 30 (1999), p. 246. Information pertaining to possible impact of Bach Long Vi Island on boundary delimitation is also derived from Keyuan, pp. 245-247 Ibid., pp. 245-246, 253 Thao, *The Gulf of Tonkin*, supra note 24, pp. 210-213 For an argument along similar lines with a parallel being drawn to the Brévié Line drawn in 1939 in the Gulf of Thailand, see Keyuan, supra note 53, pp. 238-240 For more detailed analyses, see: Thao, *The Gulf of Tonkin*, supra note 24, pp.

- Thao, *supra* note 23, pp. 25-44 and Zou, *supra* note 23, pp. 13-24 For more details, see Thao, *supra* note 23, pp. 28-30 For more details, see *ibid.*, pp. 30-32 In January 2005, Vietnam's Ministry of Foreign Affairs issued official statements in reaction to the shooting and killing of Vietnamese fishermen in the Gulf of Tonkin. The first statement was made in response to a question by a journalist on 13 January 2005, Mr. Le Dzung, spokesperson of the Ministry stated that Chinese vessels had shot dead nine Vietnamese fishermen, injured many others, and damaged their equipment. Furthermore, Vietnam had requested China to take active measures to prevent and put an end to such activities, as well as to carry out an investigation and severely punish the killers. Concerning the fact that the Chinese vessels shot to dead Vietnamese Fishermen, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/tt_baochi/pbnfn/ns050120164827 accessed on 22 March 2005 www.nhandan.com.vn/englisg/news/200105/china.htm, In another statement by Le Dzung on 20 January, he specified that the incident had occurred on 8 January and that apart from the nine deaths and the injured, China had captured a number of Vietnamese fishermen. He reiterated earlier Vietnamese demands. He also demanded that the Vietnamese who were being held be allowed to return to Vietnam, that Vietnamese officials be allowed to visit the injured and detained fishermen, and that a meeting be held by the Sino-Vietnamese Joint Fishery Committee to discuss measures to stabilize the situation. Chinese coast guards' killing of innocent Vietnamese fishermen violates international law, 20 January 2005, from the website of Nhan Dan, at, accessed on 11 March 2005 China had a diametrically different view on the course of events. On 18 January, in response to a question relating to the events of 8 January, the spokesperson of China's Ministry for Foreign Affairs, Mr. Kong Quan, stated that several Chinese fishing boats had been robbed and shot at by three unidentified armed ships. This occurred on the Chinese side in the Gulf of Tonkin. When China dispatched police ships, they were shot at and this compelled the Chinese maritime police to take necessary actions, which resulted in the death of several armed robbers- one pirating ship and eight robbers were captured and their weapons confiscated. During interrogations, the captured robbers had disclosed that they were Vietnamese and confessed to carrying out the robberies. Finally, he stated that China was ready to collaborate with Vietnam to both take concretely effective measures and strengthen cooperation i Vietnam and China issue joint statement, from the website of the Ministry of Foreign Affairs of Vietnam, at www.mofa.gov.vn/en/nr040807104143/nr040807105001/ns050726144049 (accessed on 26 July 2005) Vietnam, China make first joint navy patrol, from the website of the Communist Party of Vietnam, at http://www.cpv.org.vn/details_e.asp?topic=68&subtopic=167&leader_topic=282&id=BT3040634973 (accessed on 4 August 2006) See also Vietnam, China make first joint navy patrol, Shanghai Daily (29 April 2006) reproduced on the website of the China Internet Information Center at www.china.org.cn/english/2006/Apr/167254.htm (accessed on 4 August 2006) Vietnam and China hold talks on sea delineation, from the website of Nhan Dan, at http://www.nhandan.com.vn/engligs/news/200106/domestic_vnandchin.htm (accessed on 23 January 2006) and, Viet Nam, China meet for talks on shared sea border, from the website of Vietnam News Agency, at (accessed on 22 January 2006) The most detailed study on the management on the territorial disputes between China and Vietnam is Amer, *The Sino-Vietnamese Approach*, *supra* note 40 See: The Joint Declaration of 27 February 1999, issued in the connection with the visit to China by the then Secretary General of the Communist Party, Le Kha Phieu, reproduced in *Vietnam Law & Legal Forum*, 5, No. 54 (February 1999), p. 13 the Joint Statement for comprehensive cooperation signed on 25 December 2000 by the two Foreign Ministers of the two countries, Joint Viet Nam-China Statement for Comprehensive Cooperation (take two), Vietnam News Agency (VNA) (26 December 2000), from the website of the Vietnam News Agency, at www.vnagency.com.vn/Asp/Redanewse4.asp?FileN=frac2612.004 (accessed on 27 December 2000) and the Joint Communiqué of 8 October 2004, issued in connection with the visit of China's Prime Minister Wen Jiabao to Vietnam, China and Vietnam Issues a Joint Communiqué, 8 October 2004, from the website of the Ministry of Foreign Affairs of the People's Republic of China at www.fmprc.gov.cn/eng/wjb/zzjg/yzs/gjlb/2792/2793/t163759.htm (accessed on 22 March 2005) The Declaration on Conduct is reproduced in Nguyen Hong Thao,

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- The official announcement of the agreement was made by the Philippines on 6 September 2004. RP-China Agreement on Joint Marine Seismic Undertaking in the Sea Constitutional Rumulo/DFA hails PGMA's Successful State Visit to China
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